IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

Crl.Rev.Pet.No. 317 of 2000()

CRA.181/1994 of ADDL.SESSIONS COURT, KOTTAYAM
CC.280/1990 of JUDL.MAGISTRATE OF FIRST CLASS, PALA

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REVN. PETITIONER:

M.M.SEBASTIAN,
NANDAMATTOM VEEDU,
KURUMANNU P.O., PALA

BY ADV. SRI.N.A.MURALEEDHARAN

RESPONDENTS:

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1. FOOD INSPECTOR, KADANADU PANCHAYAT,
PALA, CIRCLE.

2. STATE OF KERALA, REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 16/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P.NO.1915/2000 IN CRL.R.P. NO.317/2000

DISMISSED.

SD/- K.R.UDAYABHANU, JUDGE

16/08/2007

\\TRUE COPY//

K.R.UDAYABHANU, J.

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Crl.R.P.No.317 of 2000

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Dated this the 16th day of August, 2007

O R D E R

The revision petitioner is the accused who stands convicted for the offence under Section 2(ia) f.m., 7(i),16(1)a(i), (1-A) of the P.F.A Act and A.18.06 of Appendix B of P.F.A Rules and sentenced to undergo simple imprisonment for one year and to pay a fine of Rs.2,000/- and in default to undergo simple imprisonment for one month.

2. The prosecution case is that the Food Inspector on 21/03/1990 at about 12.45 p.m purchased the sample 750 grams of Bengalgram, exhibited for sale in the shop of the first accused which when examined by the Public Analyst was found to not conforming to the standards prescribed and hence adulterated. The accused invoked Section 13(2) of the Act. The samples were examined at the Central Food Laboratory and the tests also returned the finding that the grains are insects damaged and hence did not conform to the standards prescribed for food grains in the P.F.A Rules.

3. It is the contention of the revision petitioner that the sampling was conducted on 21/03/1990 and the report of the Public Analyst is dated 04/04/1990. The sample was analysed at the C.F.L vide Ext.P15 on 31/09/1990 and hence, there is a gap of more than six months from the date of sampling till the date of analysis at the C.F.L. It is brought out from the evidence of the Food Inspector that he had not added any preservatives. It is also seen that PW.1 had admitted that sample in the bottle was about three-fourth of the bottle and that there was air inside the bottle. The counsel has relied on the Division Bench decision of this Court in **Narayanan Nair vs. Food Inspector [2003 (2) KLT 419]**, wherein it has been held that it is the duty of the Food Inspector to preserve the food items in the same condition till the date of analysis by adding preservatives or using such method that the food grains will remain in the same condition till the date of analysis. In the above case on similar facts (the sample therein was also Bengalgram), this Court acquitted the accused. In the instant case also I find that the similar infirmities do exist i.e; non adding of preservatives and also leaving sufficient air space for the organisms to multiply. In the circumstances, I find that the accused is entitled to the benefit of

doubt. The conviction and sentence is set aside. The accused is acquitted.

The criminal revision petition is allowed as above.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.R.P.No.317 of 2000

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O R D E R

16th August, 2007